

Application No.: 10/710,714

Docket No.: 04602-00177-US

REMARKS

Applicant requests the Examiner to reconsider the application as amended. Claims 1-19 are pending in the application. Claim 1 has been amended. Support for the amendment can be found in Fig. 2, which illustrates the joining of the side edges. Claim 19 is newly presented and claims the pouch structure of the size-adjustable pillow cover in an alternate manner. Support for claim 19 can be found in Fig. 7 and paragraph 25 of the written description.

I. Designation of Allowable Subject-matter

Applicant wishes to thank the Examiner for indicating that claims 2 and 5-18 contain allowable subject matter.

II. Rejection under 35 U.S.C. § 102

Applicant respectfully traverses the Examiner's assertion that claims 1, 3 and 4 are anticipated by Bertha (US 1775061) under 35 U.S.C. 102(b).

Bertha discloses a duplex pillow cover having an inner cover 9 and an outer cover 8. Bertha intends both an inner and an outer cover that are permanently stitched together. The inner cover 9 defines an internal portion for receiving a pillow and an external portion having a front face and a rear face (best seen in Fig. 4). Inner cover 9 defines an open end communicating with the internal portion, and the front face defines at least one opening (col. 2, lines 59-66). A flap (extension 12) is folded within the internal portion (corners 13) at the open end of cover 9 (best seen in Fig. 3). At least one fastener 15 attached to a face of the flap is engagable with an opening 16 in the face of the cover to secure the cover over a pillow within the cover. Bertha does not disclose an open pouch capable of receiving a portion of a pillow or a duvet in its flap structure. Nor does Bertha disclose a size-adjustable pillow cover.

Application No.: 10/710,714

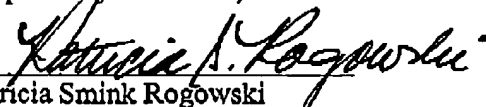
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Applicant respectfully traverses the assertion of anticipation by Bertha with respect to all the claims. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference," *Verdegall Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). Bertha does not anticipate the claimed invention. Bertha does not disclose an open "pouch" in its flap structure. Instead, Bertha discloses two folded over corners 13 that are stitched down by seams 14. There is no flap portion forming an open pouch that is capable of receiving a portion of a pillow or duvet. Nor does Bertha teach any flap having side edges joined to a respective side edge of the rear face of the cover so to form a "pouch". Claim 1 as amended and newly presented claim 19 thus patentably distinguish from Bertha. For the same reasons that claim 1 is allowable, the remaining claims depending from claim 1 are allowable. Therefore, Applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this response and amendment. However, if a fee is due, please charge our Deposit Account No. 03-2775, under Order No. 04602-00177-US from which the undersigned is authorized to draw.

Dated: March 14, 2005

Respectfully submitted,

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